IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.18789 of 2004

Between:

Giri Nivarthi Rao, S/o.late Bashaiah,
R/o H. No. 5-9-768, Gunfoundry, Hyderabad.

...PETITIONER

AND

1. The Wakf Board, Rep.by its Secretary, Opp.Public Garden, Near Nampally Station, Hyderabad.
2. Managing Committee Masjid Asar-e-Shareef Rahamania, rep.by its President, Tallagadda, Karwan Sahu, Hyderabad.
3. Principal Secretary, Government of Andhra Pradesh, Revenue Department, Secretariat Buildings, Saifabad, Hyderabad, Andhra Pradesh.
4. The Commissioner, Municipal Corporation of Hyderabad, Tank Bund Road, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an appropriate Writ or order or direction more particularly on in the nature of Writ of Certiorari by quashing the Gazette notification dated 23.03.1978 and Gazette notification (Errata) dated 13.04.1995 which are quiet illegal and arbitrary.

Counsel for the Petitioner: MR.T.V.RAJEEVAN

Counsel for the Respondent No.1: MR.A.M.QURESH

Counsel for the Respondent No.2: NONE APPEARS

Counsel for the Respondent No.3: GP FOR REVENUE
Counsel for the Respondent No.4: MR.RAMA RAO GHANTA

The Court made the following:

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.18789 of 2004

ORDER:

This Writ Petition is filed assailing the gazette notification dated 23.03.1978 as well as the gazette notification dated 13.04.1995 whereunder the properties claimed to be owned and possessed by the petitioner were declared as wakf property.

At the outset it is to be noted that under Section 7 of the Wakf Act, 1995 (for short 'the Act'), after the commencement of the Act if any question arises whether a particular property specified as wakf property in a list of wakfs is a wakf property or not the Board or the mutawalli of the wakf or any person interested therein, may apply to the Tribunal having jurisdiction in relation to such property for decision. Further, since the dispute purely relates to a wakf property, even under Section 83 of the Act the petitioner is at liberty to approach the wakf tribunal. Hence, the petitioner cannot maintain this Writ Petition without exhausting the said alternative remedies available under the statute. Accordingly, granting leave and liberty to the petitioner to work out appropriate remedy as available under the statute, the Writ Petition is disposed of. No costs.

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(G.ROHINI, J)

13th October 2004

Note: CC by two days

B/O

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, Wakf Board, Opp.Public Garden, Near Nampally Station, Hyderabad.
2. The President, Managing Committee Masjid Asar-e-Shareef Rahamania, Tallagadda, Karwan Sahu, Hyderabad.
3. The Principal Secretary, Government of Andhra Pradesh, Revenue Department, Secretariat Buildings, Saifabad, Hyderabad, Andhra Pradesh.
4. The Commissioner, Municipal Corporation of Hyderabad, Tank Bund Road, Hyderabad.
5. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
6. Two CD copies.